

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

ROB MACINNIS,

Plaintiff,

- against -

HALLEAHWOOD DESIGNS LLC

Defendant.

Docket No. 5:19-cv-5160

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff Rob Macinnis (“Macinnis” or “Plaintiff”) by and through his undersigned counsel, as and for his Amended Complaint against Defendant Halleahwood Designs LLC (“Halleahwood” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of animals at farm, owned and registered by Macinnis, a professional photographer. Accordingly, Macinnis seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Arkansas and is registered with the Arkansas Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Macinnis is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 86 Douglas Street, Brooklyn, New York 11231.

6. Upon information and belief, Halleahwood is a domestic limited liability company organized and existing under the laws of the State of Arkansas, with a place of business at 209 East Colorado Avenue, Springdale, Arkansas 72764. Upon information and belief, Halleahwood is registered with the Arkansas State Department of Corporations to do business in Arkansas. At all times material hereto, Halleahwood has owned and operated a website at the URL: www.Halleahwood.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Macinnis photographed animals in a farm (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Macinnis is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-159-401. A true and correct copy of the Registration is attached hereto as Exhibit B.

B. Defendant’s Infringing Activities

10. Halleahwood ran the Photograph on design they are selling for \$5.00. (“the Design”) See: <https://halleahwood.com/products/animal-gang>. A screenshot of the Photograph on the Design is attached hereto as Exhibit C.

11. Halleahwood did not license the Photograph from Plaintiff for its Design, nor did Halleahwood have Plaintiff’s permission or consent to publish the Photograph on its Design

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Halleahwood infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Design. Halleahwood is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Halleahwood have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff’s rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff’s copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant’s profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Halleahwood be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded his actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs and expenses;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
November 13, 2019

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